IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

Crl.Rev.Pet.No. 3771 of 2007()

CRA.348/1999 of SESSIONS COURT, TRIVANDRUM
ST.1372/1999 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III, TRIVANDRUM

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REVN. PETITIONER:

JOHN JACOB, S/O. ANTONY MUTHU, AGED 55 YEARS,
RAMAPUTHUR, NAGARCOIL, TAMIL NADU.

BY ADV. SRI.K.M.SATHYANATHA MENON
SRI.A.SANTHOSH KUMAR

RESPONDENTS:

THE STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI. K.S. SIVAKUMAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL. R.P. NO. 3771 OF 2007

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Dated this the 22nd day of October, 2007.

ORDER

The petitioner stands sentenced to imprisonment for one month pursuant to the conviction under Section 47 of the Kerala Police Act consequent on the revision petitioner pleading guilty to the offence.

2. The case of the prosecution is that at about 11.30 p.m. on 08.08.1999 the accused was found along with a lady by name Kamalam inside the compound of the Magistrate Court, Vanchiyoor for the purpose of illegal activities and he has thereby committed the offence punishable under Section 47 of the Kerala Police Act.

3. On 09.08.1999 the accused appeared before the Magistrate and was furnished with copies of the prosecution records. The particulars of the offence were thereafter read over and explained to him. He pleaded guilty to the charge. On the view that the plea was voluntarily made the Magistrate straightaway convicted and sentenced him to imprisonment for one month. An appeal preferred by the revision petitioner as Crl.Appeal No. 348/1999 before the Sessions Court, Thiruvananthapuram was unsuccessful. Hence, this revision.

4. This is a case in which one of the cardinal principles of fair

trial has been thrown to the winds by the Magistrate. Admittedly, the accused who is a Tamilian belonging to Nagarcoil, Kanyakumari District was undefended. He was deprived of his right to free legal aid which is available to every accused who is unable to defend himself. The Magistrate was straightaway sentencing him to imprisonment for one month. In the light of the decisions reported in **Madhav Shayawa Dahrao Hoskot v. State of Maharashtra** (1978 (3) SCC 544), **Khatri & others (II) v. State of Bihar & others** (1981(1) SCC 627), **Hussainara Khatoon & others (IV) v. Home Secretary, State of Bihar, Patna** (1980(1) SCC 98 and U**nnikrishnan J.P & others v. State of Andhara Pradesh** (1993 (1) SCC 645), the conviction entered and the sentence imposed on the revision petitioner cannot be sustained and are accordingly dislodged. The revision petitioner is acquitted of the offence punishable under Section 47 of the Kerala Police Act and is set at liberty.

The Crl.R.P is disposed of as above.

V. RAMKUMAR, JUDGE.

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